

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CIVIL MINUTE ORDER

DATE: October 3, 2022

TIME IN COURT: 58 minutes

JUDGE: JEFFREY S. WHITE

COURT REPORTER: Raynee Mercado

COURTROOM DEPUTY: Diyana Staples

CASE NO.: [18-cv-01431-JSW](#)

TITLE: Michelle Hinds, et al. v. FedEx Ground Package System, Inc., et al.

COUNSEL FOR PLAINTIFF:
Joseph Clapp, Michel Houchin

COUNSEL FOR DEFENDANT:
Michael Williams for FedEx Ground
Bonnie Wolf for Bay Rim

PROCEEDINGS: Pretrial Conference held via Zoom Webinar

RESULTS:

I. Motions in Limine

- a. FedEx Ground's Unopposed Motion in Limine No. 1 To Exclude Evidence of or Reference to Fedex Ground's Prior Business Model, Including Lawsuits Challenging, or Settlements Stemming From, That Model (Dkt. No. 217)
 - i. As set forth on the record the Court GRANTED the motion as unopposed.
- b. FedEx Ground's Unopposed Motion in Limine No. 2 To Exclude Reference to or Evidence of Employee Unionization (Dkt. No. 218)
 - i. As set forth on the record the Court GRANTED the motion as unopposed.
- c. FedEx Ground's Motion in Limine No. 3 To Exclude Evidence of or References to Bay Rim Services, Inc.'s Bankruptcy Filing (Dkt. No. 221)
 - i. As set forth on the record the Court GRANTED the motion pursuant to Rule 403.
- d. FedEx Ground's Motion in Limine No. 4 To Exclude Certain Arguments About Compliance with Department of Transportation Regulations (Dkt. No. 222)
 - i. As set forth on the record the Court GRANTED the motion; however, Plaintiff put forth evidence that portions of Bay Rim's ISP exceed federal regulations and they may argue that, that may be indicative of control. FedEx is free to counter any such testimony and argument.

II. Bench/Jury Trial PAGA

The Court has taken the matter under submission.

III. Voir Dire and Jury Instructions

- a. The Court shared a copy of the Jury Certification that each sworn juror will acknowledge and sign regarding the Conduct of the Jury. There are no objections.
- b. The Court conducts the Voir Dire questioning. The parties are permitted to conduct brief follow-up questioning as appropriate.
- c. The Order of challenges/and or excusals are as follows:
 1. Hardship/Time
 2. Cause
 3. Peremptory
 4. Batson
- d. The Court will require the parties to exercise their peremptory challenges simultaneously and blind as to the other party's selection until the jury is final.
- e. Each Party will have three (3) peremptory challenges. 10 jurors will be seated with no alternates.
 - i. Challenges will be exercised outside the presence of the prospective jurors.
- f. The Court's proposed jury instruction will be filed the week of October 3, 2022. Parties to file objections by October 17, 2022.

IV. Trial Matters

- a. Schedule
 - i. The Court will hear testimony from 8:00 AM to 1:30 PM on Mondays, Wednesdays, and Thursdays; trial is dark on Tuesdays to accommodate the Court's regular criminal calendar. If necessary, the Court will consider testimony on Fridays. The parties shall be prepared to begin proceedings at 7:30 AM to address any matters that may need to be resolved outside the presence of the jury.
- b. Time Allotted
 - i. The Court strongly suggests parties keep openings to 20 minutes and one hour for closing.
 - ii. Opening statements should be confined to the expected contents of witness testimony. The parties are not to be argumentative or to suggest inferences they would like the jury to make from the evidence
 - iii. Parties shall exchange demonstratives to be used in opening statements by no later than 4:00 pm the Friday before Opening Statements.
 - iv. The parties will each have 20 hours for testimony.
- c. Disputed Exhibits
 - i. The Court requires parties to meet and confer on disputed exhibits in light of rulings on Motions in Limine and PAGA claim, which will be issued the week of October 3, 2022.

V. Housekeeping

- a. The Court requires masks in the courtroom. Witnesses will use face shields. Counsel can remove masks for questioning.
- b. Parties are urged to present evidence electronically when possible.
 - i. Admitted exhibits are required to be put on a thumb drive or CD-ROM in a searchable format for jury use during deliberations.

- c. The parties are referred to the Court's website: www.cand.uscourts.gov for information re: electronic equipment and evidence presentation for information and training.
- d. If no witness is available to testify when previous witness concludes testimony, that side will be deemed to have rested.
- e. The court will allow one lawyer per witness, including objections.
- f. No speaking objections – only 1 word / brief descriptor.